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## **NPS Policies Compared with NPS Regulations**

**Summary.** The main distinction between NPS policies (i.e., Management Policies and Director's Orders) and NPS regulations contained in the Code of Federal Regulations is their enforceability. Our *policies* generally guide NPS staff in administering the parks and programs. Policies are generally "discretionary," which means they reflect the Director's own choice or judgment. They can be changed quite easily, and are generally not enforceable by outside parties. The *regulations* that we apply to park management are typically policy decisions that have been taken one step further and promulgated as a "rulemaking" under the Administrative Procedure Act. When policies are published in the form of regulations authorized by statute they carry the force and effect of law, and outside parties may ask a court to force the NPS to abide by them.

### **More Details:**

**Policies.** A policy is a guiding principle or procedure that sets the framework and provides direction for management decisions. Our policies translate Federal statutes, Executive orders, regulations, and other higher authorities into more cohesive directions for NPS staff. Policies are a reflection of our management philosophy and tell us how the Director expects NPS staff to administer the parks and programs. In the NPS, policies may prescribe the process by which decisions are made, how an action is to be accomplished, or the results to be achieved. Only the Director may issue official policy, and it must be issued in a written format. Policies do not require notification in the Federal Register or the opportunity for public comment. But we generally do these things anyway, in the interests of civic engagement and because it gives the policies greater weight. Although it is not the role of courts to enforce NPS policies, a management decision that disregards or conflicts with policy may be found to be "arbitrary and capricious" unless there is a documented reason supporting the decision to deviate from policy. The main sources of NPS policy are *Management Policies* and Director's Orders.

**Regulations.** Regulations are policies and procedures that have been adopted through the "notice and comment" rulemaking process. Authorized by statute or the equivalent, they carry the force and effect of law. In national park operations we focus mainly on regulations published in title 36 of the Code of Federal Regulations (referred to as 36 CFR). These regulations implement the statutory authority given to NPS through the Organic Act and other legal authorities. They are basically detailed policy statements that we publish as regulations so that they can be enforced against members of the public who violate them. For example, we cannot issue a citation to a visitor who cuts down a tree or who lets his dog run loose unless there is a specific regulation that prohibits those activities in a park. Published regulations apply to everyone, and their violation may result in a fine and/or imprisonment. Regulations are non-discretionary; they generally constrain or compel NPS's actions. Outside parties may demand that we enforce the regulations and conduct our activities in accordance with them. The rulemaking process is rigorous and time-consuming. We must publish proposed rules for public review and comment, include very detailed information about how the regulation complies with various laws, and explain how we factored comments into the final rule.